

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America,)	CASE NO.: 5:13CV2659
)	
Plaintiffs,)	JUDGE JOHN ADAMS
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)	
)	
Noble Homes, Inc., et al.,)	
)	<u>ORDER</u>
)	
Defendants.)	
)	

Pending before the Court is a motion to quash filed by Defendants (Doc. 91) and a joint motion to exceed the page limitation for dispositive motions (Doc. 98). In addition, pending before the Court are position statements filed by the parties with respect to a discovery dispute that arose in this matter. The Court now resolves these outstanding issues.¹

In their motion to quash, Defendants seek to quash subpoenas issued by the Government to permit inspections of four properties at Windham Bridge and four properties at Hampton Court. In their motion, Defendants contend that the properties at issue in this litigation have been subjected to up to seven prior inspections by various entities and experts. As such, Defendants contend that any further inspections are unnecessary. In response, the Government contends that it intends to limit its inspection to the basements of the units at issue and that those basements have never been previously inspected.

Initially, the Court finds it doubtful that Defendants have standing to move to quash the

¹ The inspections at issue in the subpoenas were to be completed by October 10, 2014. However, nothing in the record indicates whether this issue has become moot.

subpoenas issued to individual homeowners. However, assuming *arguendo* that the motion is proper, it is DENIED.

In their motion, Defendants ignore that it was their conduct in this litigation that placed the basements of these units at issue. It was only through the Court's grant of leave to amend their answer on August 13, 2014 that the basements of these units became relevant. Prior to that time, Defendants had consistently conceded that the units were single-story units. As Defendants placed the basements squarely at issue well into this litigation, there is nothing improper about the subpoenas issued by the Government.

The parties also filed position statements regarding whether between Dean Windham and the National Association of Home Builders should be turned over to the Government or can be properly withheld by Defendants. Upon review of the parties' position statements, the Court finds it highly unlikely that any of these communications are privileged under any of the theories posited by Defendants. However, out of an abundance of caution, the Court hereby orders that those documents be delivered to the Court by no later than October 30, 2014 for an *in camera* inspection by the Court. Following that inspection, the Court will determine whether any of the documents may be withheld.

Finally, the parties' joint motion to exceed the page limitations for dispositive motions is hereby GRANTED.

IT IS SO ORDERED.

October 24, 2014

/s/ John R. Adams
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE